

560-06/MEU/PLS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TITAN MARITIME LTD.,

06 CIV. 13505(JSR)

Plaintiff,

ECF CASE

-against-

ROTOMAC EXPORT PVT LTD. OF KANPUR,
INDIA a/k/a ROTOMAC EXPORT PVT LTD. and
FROST INTERNATIONAL LTD.,

**DECLARATION OF PAUL
WATSON IN SUPPORT OF
PLAINTIFF'S MOTION TO
RECOGNIZE AND
ENFORCE ARBITRAL
AWARD**

Defendants.
-----X

PAUL WATSON, pursuant to Section 1746 of Title 28 of the United States Code,
hereby declares and says the following under penalty of perjury:

1. I am a solicitor with North Insurance Management, Managers on behalf of the North of England Protection and Indemnity Association Limited ("NEPIA") with a Registered Office at The Quayside, Newcastle Upon Tyne, NE1 3DU United Kingdom. NEPIA provides legal services to its members in respect of charter party disputes and Plaintiff TITAN MARITIME LTD. ("TITAN") is entered as a member of the NEPIA Defence Club.

2. I personally conducted the arbitration of this matter on behalf of Plaintiff TITAN, and I am fully familiar with the facts and circumstances of the dispute between the parties, the arbitration between the parties, and all of the proceedings between the parties to date. I am fully authorized to make this Declaration on TITAN's behalf in support of its application to reduce the arbitral award issued in this matter to a Judgment of this Court. Insofar as the contents of this Declaration are within my own knowledge they are true. Insofar as the contents of this Declaration are not within my own direct knowledge, they are true to the best of my information and belief.

3. The dispute between TITAN and Defendant, ROTOMAC EXPORT PVT LTD. OF KANPUR, INDIA a/k/a ROTOMAC EXPORT PVT LTD. ("ROTOMAC") arose under a maritime contract of charter party which required the parties to submit all disputes to arbitration at London, England, to be decided pursuant to English law. The agreement to arbitrate provided further that claims under \$100,000 in value were to be decided pursuant to the small claims procedures of the London Maritime Arbitration Association ("LMAA"). I certify that a true copy of the charter, signed by (or on behalf of) both parties, is annexed hereto as Ex. 1. The written agreement to arbitrate is found at Box 25 and clauses 19 and 29 of the charter.

4. Under the charter, TITAN was owed demurrage because ROTOMAC used more time to load and discharge a cargo of bulk iron ore than was allowed under the contract terms. In addition, TITAN suffered further damages when ROTOMAC discharged cargo in a port that was not agreed upon in the charter.

5. Despite due demand, ROTOMAC refused to pay TITAN the demurrage and other amounts due and owing, and in January 2007, TITAN demanded arbitration with ROTOMAC and the parties agreed to the appointment of Mr. Patrick O'Donovan as sole arbitrator.

6. TITAN's claim submissions were served by NEPIA upon ROTOMAC via Defendant's brokers on January 22, 2007.

7. Copies of the submissions, together with supporting documents, were also served by hand on ROTOMAC on March 7, 2007 via TITAN's Indian lawyers. ROTOMAC acknowledged service by stamping the claim submissions.

8. The Arbitrator sent to ROTOMAC via e-mail dated April 18, 2007 and also via hand service (stamped received by ROTOMAC on May 4, 2007) notice by means of arbitral order that the last day the LMAA would accept submissions from ROTOMAC was May 18, 2007, in accordance with LMAA Small Claims Procedures.

9. ROTOMAC was given every opportunity to present defense submissions within the deadlines established by the LMAA Small Claims Procedures: ROTOMAC was initially given 28 days in which to serve their submissions, and thereafter the arbitrator allowed ROTOMAC an additional 14 days to serve their submissions from the date his arbitral order was served by hand upon ROTOMAC.

10. ROTOMAC deliberately declined to present submissions within the established deadlines.

11. Accordingly, the arbitral tribunal proceeded to consider the matter based on the TITAN submissions only.

12. ROTOMAC attempted to serve submissions on June 12 and June 19, 2007, which was past the May 18, 2007 deadline for submissions set by the Arbitrator as provided by the LMAA rules.

13. The LMAA rejected the submissions as untimely and proceeded to consider the claims based upon the submissions that had been submitted timely in accordance with LMAA Small Claims Procedures.

14. Ultimately, an arbitral award was rendered in favor of TITAN and against ROTOMAC on July 17, 2007. I certify that a true copy of that award is annexed hereto as Ex. 2.

15. The award directed ROTOMAC to pay TITAN the sum of \$99,353.30 in damages on its principal claim. The award also required ROTOMAC to pay interest on this sum at the rate of 7.75% per annum or pro rata compounded quarterly from November 3, 2006 until paid. The award also directed ROTOMAC to pay TITAN "costs" of £2,000 (equivalent to \$4,144.30 using the current conversion rate of £1=\$2.07215) together with interest thereon at the rate of 7.75% per annum or pro rata compounded quarterly from July 17, 2007 until paid. The award further directed ROTOMAC to reimburse TITAN for the costs of the award of £1,500 (\$4,144.30) together with interest thereon at the rate of 7.75% per annum or pro rata compounded quarterly from December 27, 2006 until reimbursed. This award is final and conclusive between the parties and has not been appealed.

16. TITAN provided a copy of the award to ROTOMAC on July 17, 2007 and has repeatedly demanded payment of ROTOMAC for the amounts due thereunder. ROTOMAC, in bad faith, has refused or otherwise failed to make any payment against the award.


17. Both the United Kingdom and the United States are parties to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The New York Convention provides that upon supplying certified copies of the agreement to arbitrate and the arbitral award, a court in a nation that is party to the New York Convention must recognize and enforce that award as a domestic judgment, if it is made timely, and if none of the few reasons designated in the Convention for non-recognition are present.

18. This application is timely as the award was issued in July 2007 which is well within the three-year time period permitted under the New York Convention, and it is respectfully submitted that none of the designated reasons listed in the Convention for non-recognition can in good faith be raised here by ROTOMAC.

19. Accordingly, recognition and enforcement of the arbitral Award rendered in London before the LMAA should be had, and the Award should be made a Judgment of this Court.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Dated: Newcastle Upon Tyne, England
October 11th 2007



Paul Watson

EXHIBIT 1

1. Shipbroker
GREYSTONE SHIPPING LTD.
14TH FLOOR, YORK HOUSE
EMPIRE WAY
WEMBLEY
ENGLAND
HA9 0PA

3 Owners / Place of business (Cl. 1)
TITAN MARITIME COMPANY LIMITED
VALLETTA MALTA

5 Vessel's name (Cl. 1)

MY ALINDA

7 DWT (if told on summer load line in metric tons (abt) (Cl. 1))

38,306 MTS. / 9,767 MTRS.

9 Expected ready to load (abt) (Cl. 1)

04 AUGUST 2006 (0001 HOURS LT)

10 Loading port or place (Cl. 1)

ISB 1 SP HALDIA UPTO DRAFT + 1 SB SP PARADIP

12 Cargo (also state quantity and margin in Owner's option, if agreed; if full and complete cargo not agreed state "part cargo" (Cl. 1))

MINIMUM 37200 MT SPC MORE IN OWNERS' OPTION BULK IRON ORE.

13 Freight rate (also state whether freight prepaid or payable on delivery) (Cl. 4)

US\$ 18.50 PMT BASIS 2/1

15 State if vessel's cargo handling gear shall not be used (Cl. 5)

17 Shippers/Place of business (Cl. 6)

FRUIT INTERNATIONAL LTD. KANPUR

18 Agents (loading) (Cl. 6)
CHARTERERS' AGENTS

19 Agents (discharging) (Cl. 6)

SEE CLAUSE 25.

20 Demurrage rate and manner payable (loading and discharging) (Cl. 7)
DEM. USD 8,000/ HALF DESPATCH TO BE SETTLED AFTER
COMPLETION OF DISCHARGE OF CARGO WITHIN 15 DAYS UPON
23 Freight tax (state if for the Owners' account (Cl. 13))
FOR OWNER'S ACCOUNT

25 Law and Arbitration (state 19(a), 19(b) or 19(c) of Cl. 19; if 19(c) agreed also
state Place of Arbitration) (if not filled in 19(a) shall apply) (Cl. 19)
ENGLISH LAW / ARBITRATION IN LONDON.

(a) State maximum amount for small claims/shortened arbitration (Cl. 19)
FOR ANY DISPUTE NOT EXCEEDING USD 100,00 THEN BOTH
PRINCIPALS AGREE TO SETTLE SUCH DISPUTE IN ACCORDANCE
WITH LMAA SMALL CLAIMS PROCEDURE.

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter Party which shall include
Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of
such conflict.

Signature (Owners)

RECOMMENDED
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL
UNIFORM GENERAL CHARTER (AS REVISED 1922, 1976 and 1994)
(To be used for trades for which no specially approved form is in force)
CODE NAME: "GENCON" Part I

2 Place and date

LONDON, 1ST AUGUST 2006

4 Charterers/Place of business (Cl. 1)

M/S ROTOMAC EXPORT PVT LTD OF KANPUR, INDIA
201 CITY CENTRE 63/2, THE MALL
KANPUR - 208004 INDIA

6. ORT/NRT (Cl. 1)

8. Present position (Cl. 1)

TRADING

11 Discharging port or place (Cl. 4)

ISB 1 SP HALDIA UPTO DRAFT + 1 SB SP PARADIP

14. Freight payment (state currency and method of payment; also
beneficiary and bank account) (Cl. 4)

SEE CLAUSE 24

16 Laytime (if separate laytime for load. and disch. is agreed fill in a) and b) if total laytime
for load. and disch. fill in c) only) (Cl. 6)

a) Laytime for loading

LOADING RATE: 6000 MTS PWD SHINC. AT BOTH LOAD PORTS BASIS
WORKABLE 5 HOOKS. IF SHORE CRANE LOADING AT PARADIP THEN 8,000
MTS PWD SHINC.

b) Laytime for discharging

DISCHARGING RATE: CQD DISCHARGE (CHARTERERS GUARANTEE MIN
3,000 MTS PWD SHINC. - IT IS HERBY UNDERSTOOD THAT OWNERS ARE
ENTITLED TO GIVE A NOTICE ON ARRIVAL AND LAYTIME TO START
COUNTING 12 HOURS LATER AS PER CLAUSE 17.

c) Total laytime for loading and discharging

21 Cancellation date (Cl. 9)

09 AUGUST 2006 (2400 HRS LT)

22 General Average to be adjusted at (Cl. 12) LONDON

24 Brokerage commission and to whom payable (Cl. 15)

6.25% TOTAL PAYABLE OUT OF 100% FREIGHT.
PLEASE SEE CLAUSE 46.

26 Additional clauses covering special provisions, if agreed
ADDITIONAL CLAUSES 18 TO 47 BOTH INCLUSIVE.

Signature (Charterers)

PART II
"Gencon" Charterparty Revised 1922, 1976 and 1994

1 It is agreed between the party mentioned in Box 1 as the Charterers of the Vessel
 2 named in Box 3 of the C/PN indicated in Box 6 and carrying about the number
 3 of metric tons of deadweight capacity set forth on summer loadline stated in Box
 4 17 now in position as stated in Box 8 and expected ready to load under this
 5 Charter Party about the date indicated in Box 9 and the party mentioned as the
 6 Charterer in Box 11 that
 7 The said vessel shall as soon as her prior commitments have been completed
 8 proceed to the loading ports or anchorage(s) stated in Box 10 or so near thereto as
 9 she may safely get and be always afloat, and there load a full and complete
 10 cargo of shipment of deck cargo agreed same to be at the Charterers' risk and
 11 responsibility as stated in Box 12 which the Charterers bind themselves to
 12 ship, and being so loaded the Vessel shall proceed to the discharging port(s) or
 13 anchorage(s) stated in Box 11 as ordered on sighting Bills of Lading, or so near
 14 thereon as she may safely get and be always afloat, and there deliver the cargo

15 2 Owners' Responsibility Clause

16 The Owners are to be responsible for loss of or damage to the goods or for
 17 delay in delivery of the goods only in case the loss, damage or delay has been
 18 caused by personal want of due diligence on the part of the Owners or their
 19 Manager to make the Vessel at all respects seaworthy and to secure that she is
 20 properly manned, equipped and supplied, or by the personal act or default of
 21 the Officers or their Mates
 22 And the Owners are not responsible for loss, damage or delay arising from any
 23 higher cause whatsoever, even from the neglect or default of the Master or crew
 24 of any other person employed in the Owners on board or shore for whose
 25 acts they would not be liable, but the Charterers are responsible for loss or damage to the
 26 Vessel on loading or unloading of the cargo or at any time
 27 whatsoever

283 Deviation Clause

28 The vessel has liberty to call at any port or ports, in any order, for any purpose
 29 and without pilots, in tow and/or under way in all countries, and also in
 30 adverse for the purpose of saving life and/or property

324 Payment of Freight SET I LAYTIME NO. 24

321 The freight at the rate stated in Box 13 shall be paid in cash calculated on the
 322 minimum quantity of cargo.

323 **Light Demurrage:** If according to Box 13 freight is to be paid on shipment, it shall be
 324 deemed earned and non-refundable. Vessel and on cargo lost or out-look
 325 unless the Charterers or their agents shall be required to sign or endorse bills of
 326 Lading showing freight prepaid unless the freight due to the Charterers has
 327 actually been paid.

328 **Freight:** If according to Box 13 freight on part thereof is payable at
 329 destination, it shall not be deemed earned until the cargo is thus delivered.
 330 Notwithstanding the provisions under 328, freight on part thereof is payable on
 331 delivery of the cargo the Charterers shall have the option of paying the freight
 332 on delivery or weight quantity provided vessel is not declared before discharge
 333 lost and the weight quantity can be ascertained by official weighing machine
 334 joint and survey or fully.

335 **Cost for Vessel's ordinary disbursements** at the port of loading to be advanced
 336 and 4-fifths of the cost of highest current rate of exchange, minus in
 337 advance payment to cover insurance and other expenses

605 Loading / Discharging

606 Cargo

338 The cargo shall be brought into the holds, stowed, secured and trimmed.
 339 It shall be lashed and/or secured and taken from the holds and discharged by the
 340 Charterers free of any risk, liability and expense whatsoever to the Owners.
 341 The Charterers shall provide and pay all dunnage material as required for the
 342 proper stowage and protection of the cargo on board. The Owners allowing the
 343 use of all dunnage is available on board. The Charterers shall be responsible for
 344 and pay the cost of removing their dunnage after discharge of the cargo under
 345 Ship's Tally Party and time to count until dunnage has been removed.

607 Cargo Handling Gear

346 Unless the Vessel is provided or unless it has been agreed between the parties
 347 that the Vessel's gear shall not be used and stated as such in Box 15, the
 348 Owners shall throughout the duration of loading/discharging give free use of
 349 the Vessel's cargo handling gear and of sufficient power to operate all

350 such cargo handling gear. At such a power to be in good working order
 351 600 times caused by negligence of the crew, but not by fault of the
 352 Vessel's cargo handling gear or other power. The rate of loading of
 353 600 times required at that time for the loading/discharging of cargo
 354 under this Charter Party shall not count as a time or time-on-dunnage
 355 700 in respect the Owners shall provide free of charge dunnage for the cargo
 356 710 The Charterers shall provide the Vessel's cargo handling gear unless local conditions
 357 720 prohibit this, in which case the Charterers shall be liable for the cost of the
 358 730 Charterers' equipment without limit. In such the Charterers shall be
 359 740 responsibility and as stated above for the duration of the Charter Party and
 360 750 760 work under the supervision of the Master.

760 Severe Weather SET I LAYTIME NO. 22

770 The Charterers shall be responsible for damage caused by severe weather and
 780 790 800 810 820 830 840 850 860 870 880 890 900 910 920 930 940 950 960 970 980 990

90 6 Laytime SET I LAYTIME NO. 25

91 600 610 620 630 640 650 660 670 680 690 700 710 720 730 740 750 760 770 780 790 800 810 820 830 840 850 860 870 880 890 900 910 920 930 940 950 960 970 980 990

920 The cargo shall be loaded within the number of hours stated in Box 16
 930 940 950 960 970 980 990 1000 1010 1020 1030 1040 1050 1060 1070 1080 1090 1100 1110 1120 1130 1140 1150 1160 1170 1180 1190 1200 1210 1220 1230 1240 1250 1260 1270 1280 1290 1300 1310 1320 1330 1340 1350 1360 1370 1380 1390 1400 1410 1420 1430 1440 1450 1460 1470 1480 1490 1500 1510 1520 1530 1540 1550 1560 1570 1580 1590 1600 1610 1620 1630 1640 1650 1660 1670 1680 1690 1700 1710 1720 1730 1740 1750 1760 1770 1780 1790 1800 1810 1820 1830 1840 1850 1860 1870 1880 1890 1900 1910 1920 1930 1940 1950 1960 1970 1980 1990 2000 2010 2020 2030 2040 2050 2060 2070 2080 2090 2100 2110 2120 2130 2140 2150 2160 2170 2180 2190 2200 2210 2220 2230 2240 2250 2260 2270 2280 2290 2300 2310 2320 2330 2340 2350 2360 2370 2380 2390 2400 2410 2420 2430 2440 2450 2460 2470 2480 2490 2500 2510 2520 2530 2540 2550 2560 2570 2580 2590 2600 2610 2620 2630 2640 2650 2660 2670 2680 2690 2700 2710 2720 2730 2740 2750 2760 2770 2780 2790 2800 2810 2820 2830 2840 2850 2860 2870 2880 2890 2900 2910 2920 2930 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General Editor: A. Revised 1972: 2, 10, and 1220.

137 & Lien f. Lause

13. The Owners shall have a lien on the cargo and on all sub-brights payable on it, respectively on the cargo, for freight, deadweight, demurrage claims for damages, if and for all other amounts due under this Charter Party including costs of expenses incurred.

1. I have

113. The Should the Vessel not be ready to load (whether in berth or not) on the 11th cancelling date, indicated in Box 11, the Charterer shall have the option of 14th cancelling the Charter Party.

1.41 (b) Should the Charterers anticipate the discharge of the vessel of due diligence
1.42 the vessel will not be ready to load by the cancelling date, they shall notify the
1.43 Charterers thereof without delay stating the expected date of the Vessel's
1.44 readiness to load and asking whether the Charterers will exercise their option
1.45 of cancelling the Charter Party or agree to a new redelivery date

1. If cancelling, then the Charter Party shall be deemed to be amended such that the charter party must be delivered by the Charterers within 48 working hours after 15th the receipt of the Owners' notice. If the Charterers do not exercise their option for cancelling, then the Charter Party shall be deemed to be amended such that 15th the seventh day after the first tenderness date stated in the Owners' notification 15th the Charterers will be the new cancelling date.

151 The provisions of sub-clause (3) of this Clause shall operate only once and in
152 case of the Vessel's further delay the Charterers shall have the option of
153 cancelling the Charter Party as per sub-clause (2) of this Clause.

141 10. Hills of the country

153 Rules of lading shall be presented and signed by the Master of the
~~154 of the vessel. Rules of lading shall be presented and signed by the Master of the~~

152. That in the above-mentioned written authority has been given by the
153. Charters, to the agents in case of which is to be furnished to the Charters. The
154. Charters shall intend the Charters against the consequences or liabilities
155. that may arise from the signing of bills, including as presented to the extent that
156. the terms or contents of such bills of lading impose or result in the imposition
157. of any serious liabilities upon the Charters, than those assumed by the Charters
158. under the Charter Party.

154 11 Roth.-sp. Blume & oblong & laeve

162 If the Vessel comes into collision with another vessel as a result of the
163 negligence of the other vessel and any net payment in default of the Master
164 for Marine Pilot or the servants of the Owners in the navigation or in the
165 management of the Vessel the owners of the cargo carried hereon shall
166 indemnify the Charterers against all loss or liability to the other or non-carrying
167 vessel or her owners in so far as such loss or liability represents loss of or
168 damage to or any claim whatsoever of the owners of said cargo, paid or
169 payable by the other or non-carrying vessel or her owners to the owners of said
170 cargo and such loss, recovered or recovered by the other or non-carrying vessel
171 or her owners is part of their claim against the carrying Vessel or the Owners
172 The foregoing provisions shall also apply where the owners, operators or those
173 in charge of any vessel in vicinity or objects other than or in addition to, the
174 collision vessels or objects are at fault in respect of a collision or contact

(78-13) General Average and New Jason Clause.

187 General Average shall be adjusted in London unless otherwise agreed in Bore
188 1994 according to York-Antwerp Rules 1994 and any subsequent modifications
189 thereof. Proprietors of cargo to pay the cargo's share to the general expenses
190 even if same have been necessitated through neglect or default of the
191 Owners' servants (see Clause 21)

[illegible][illegible]

1994-13, 12146 and Dms (later 8) 8 6 4 11 21 34) 26

[illegible]

2014-15-2015-16

248. In every case the Librarian shall appear before the Board at 90% to 100% of the loading and the part of discharge.

210. 15. Brinklage 46.4 (1.31 SE NE), 47

211. A debt charge is incurred in the determination of the 24 on the foreign debt-charge
212 and debt charge is not to be paid to the party mentioned in the 24
213. A debt charge is incurred in the determination of the 24 on the foreign debt-charge
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217 16. General Strike 1. Cause

218 and if there is a strike in fact not affecting or even in the event of a strike in the
219 cargo or any part of it where the Vessel is fully or partially loaded, the cargo is to be
220 at any time during the voyage to the port or ports of discharge or over to a port
221 where the balance of the cargoes are to be discharged, to discharge the cargo
222 agreed to receive the balance of the cargo at any such port or ports of discharge. This is
223 if the charterers have agreed to discharge the cargo at the place or places of discharge
224 within 21 days of the charterers shall have the right of discharge at any such port or
225 port. If part cargo has already been loaded, the charterers shall have the right
226 also, the right to load or to load and unload cargo at any such port or ports of discharge
227 unless cargo is to be discharged at a port or ports of discharge.

228 (b) If there is a strike or lock-out affecting in part or in the whole the carrying
229 of the cargo in or after the vessel's departure, or in all part of discharge and on
230 has not been settled within 48 hours after the cargo is received into the appraiser's
231 keeping the vessel's cargo until such strike or lock-out has been so settled and
232 paying half demurrage after expiration of the time provided for discharge;
233 until the strike or lock-out terminates and thereafter full demurrage; or if
234 payable until the completion of discharge, or of unloading the vessel to a point
235 past where she can safely discharge without red or being delayed by strike or
236 lock-out. Such orders to be given within 48 hours after the vessel's departure;
237 Owners have given notice to the charterers of the strike or lock-out affecting
238 the discharge, the delivery of the cargo at discharge and all conditions of the
239 Charter Party, and of the Bill of Lading shall apply, and the vessel shall be
240 the same freight as if she had not been in the original port of destination
241 except that if the discharge to the sub-tenant port exceeds 150 tons of cargo,
242 the freight on the cargo delivered at the substituted port to be 100 tons of
243 cargo.

2403. Except for the surface considerations set forth in the preceding paragraph, the

240 The Journal of Management Education 35(2)

PART II

Contract "Charter" (As Revised 1997) 1996 and 1997

17. War Risks ("War Risk 1997")

248 (1) For the purpose of this clause the words

249 (a) the "Owners" shall include the shipowners, bareboat charterers,

250 independent owners, managers or other persons who are charged with the

251 management of the Vessel and the Master and

252 (b) War Risks shall include any war (whether actual or threatened) act of

253 war, civil war, hostilities, revolution, rebellion, civil commotion, strike

254 operations, the laying of mines (whether actual or reported) acts of piracy,

255 acts of terrorists, acts of hostility or malicious damage, blockades

256 (whether imposed against all Vessels or against selected vessels),

257 Vessels of certain flags or owner ship, or against certain cargoes or crew

258 or otherwise imposed on by any person, bank, national or political group,

259 or the Government of any state whatsoever which in the reasonable

260 judgement of the Master and/or the Owners may be dangerous or may

261 result in the loss of or damage to the Vessel, her cargo crew or other

262 persons on board the Vessel

263 (2) If at any time before the Vessel commences loading it appears that, in the

264 reasonable judgement of the Master and/or the Owners, performance of

265 the Contract of Carriage, or any part of it may expose, or is likely to expose,

266 the Vessel her cargo, crew or other persons on board the Vessel to War

267 Risks, the Owners may give notice to the Charterers cancelling the

268 Contract of Carriage or may refuse to perform such part of it as may

269 expose or may be likely to expose the Vessel her cargo crew or other

270 persons on board the Vessel to War Risks provided always that if this

271 Contract of Carriage provides that loading or discharging is to take place

272 within a range of ports, and at the port or ports nominated by the Charterers

273 the Vessel, her cargo crew or other persons on board the Vessel may be

274 exposed, or may be likely to be exposed, to War Risks the Owners shall

275 first require the Charterers to nominate any other safe port which lies

276 within the range for loading or discharging and may only cancel the

277 Contract of Carriage if the Charterers shall not have nominated such safe

278 port or ports within 48 hours of receipt of notice of such requirement

279 (3) The Owners shall not be required to continue to load cargo for any voyage

280 or to sign Bills of Lading for any part or place or to proceed or continue on

281 any voyage or on any part thereof or to proceed through any canal or

282 waterway, or to proceed to or remain at any port or place whatsoever

283 where it appears, either after the loading of the cargo commences or at

284 any stage of the voyage thereafter before the discharge of the cargo is

285 completed that, in the reasonable judgement of the Master and/or the

286 Owners, the Vessel her cargo (or any part thereof), crew or other persons

287 on board the Vessel to any one or more of them may be, or are likely to be

288 exposed to War Risks. If it should so appear the Owners may by notice

289 require the Charterers to nominate a safe port for the discharge of the

290 cargo or any part thereof, and if within 48 hours of the receipt of such

291 notice the Charterers shall not have nominated such a port, the Owners

292 may discharge the cargo at any safe port of their choice (including the port

293 of loading) or complete fulfillment of the Contract of Carriage. The Owners

294 shall be entitled to recover from the Charterers the extra expenses of such

295 discharge and if the discharge takes place at any port other than the

296 loading port to recover the full freight as though the cargo had been

297 carried to the discharging port and if the extra distance exceeds 100 miles

298 in additional freight which shall be the same percentage of the freight

299 contracted for as the percentage which the extra distance represents in

300 the distance of the actual and customary route the Owners having a lien

301 on the cargo for such expenses and freight

302 (4) If at any stage of the voyage after the loading of the cargo commences, it

303 appears that in the reasonable judgement of the Master and/or the

304 Owners, the Vessel her cargo crew or other persons on board the Vessel

305 may be, or are likely to be, exposed to War Risks on any part of the route

306 (including any canal or waterway) which is normally and customarily used

307 in a voyage of the nature contracted for, and there is another longer route

308 to the discharging port, the Owners shall give notice to the Charterers that

309 this route will be taken in this event the Owners shall be entitled if the total

310 extra distance exceeds 100 miles to additional freight which shall be the

311 same percentage of the freight contracted for as the percentage which the

312 extra distance represents in the distance of the actual and customary

313 route

314 (5) The Vessel shall have liberty

315 to comply with all laws, decrees, regulations, orders, notices or

316 departure actual orders relating to, or from, ports of call, shipping

317 destinations, discharge of cargo delivery or any other whatsoever which

318 are given by the Government of the United Kingdom or which may be given

319 by any Government which exercises jurisdiction over the Vessel or any

320 other Government which exercises jurisdiction over the cargo or crew

321 power to board Vessels with their crews or cargoes

322 (6) To comply with the orders, directions or recommendations of a port

323 risk underwriters who have the authority to give the same under the terms

324 of the contract of insurance

325 (7) To comply with the orders of any local or foreign authority or

326 United Nations, any authority of the United Kingdom or any other

327 order of any other Government or authority in the United Kingdom and

328 give the same and enforce the same and if necessary the same to which

329 the Vessel are subject in order to obtain clearance to discharge cargo or

330 are charged with their enforcement

331 (8) To discharge at any other port or place or part thereof which may

332 be under the Vessel's obligation to discharge cargo or crew or other

333 to call at any other port to change the crew or any other part of the

334 persons on board the Vessel when there is reason to believe that the Vessel

335 is subject to national requisition or other action

336 (9) Where cargo has not been loaded or has been discharged by the

337 Owners under any provision of this clause or under any other clause of the

338 Charter or any bill of lading or any other document relating to the cargo

339 whether by land or by sea or by air or by any other means of transport or

340 customary route

341 (10) In compliance with any of the provisions of this clause the Vessel

342 shall have anything is done or not done, such shall not be deemed to be a

343 deviation but shall be considered as the fulfillment of the Contract of

344 Carriage

18. General for Clause

18.1. Part of loading

345 (a) The loading of the cargo shall be commenced by the Charterers at the

346 loading port or ports and shall be completed by the Charterers at the

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400 loading port or ports and shall be completed by the Charterers at the

PART II
 Charter (As Revised 1922, 1976 and 1994)

3819. Law and Arbitration IN LONDON AS PER ENGLISH LAW
 3820. This Charter Party shall be governed by and construed in accordance with English law and any dispute arising out of this Charter Party shall be referred to arbitration in London in accordance with the Arbitration Act 1976 or 1994. The parties agree upon a sole arbitrator and arbitrator shall be appointed by each party and the arbitrator so appointed shall appoint a third arbitrator. The decision of the three arbitrators shall constitute an award in writing of which the party in default shall deposit their arbitration within 14 calendar days, failing which the decision of the single arbitrator appointed shall be final.
 3821. In disputes where the total amount claimed by either party does not exceed \$10,000, the arbitration shall be conducted in accordance with the London Court of Arbitration Procedure and the London Maritime Arbitration Association.
 3822. Arbitration
 3823. This Charter Party shall be governed by and construed in accordance with the law of the United States of America and the jurisdiction of the United States and all disputes arising out of this Charter Party, the matter in dispute shall be

401 referred to three persons at New York one to be appointed by each of the 402 parties before the date of the Charter Party and one to be appointed by the 403 two of them shall be final and for purposes of computing any award the 404 agreement may be made a rule of procedure the proceedings shall be 405 conducted in accordance with the rules of the Society of Maritime Arbitrators 406 Inc.
 407 In disputes where the total amount claimed by either party does not exceed 408 the amount stated in the Charter Party the arbitrator shall be appointed by the 409 arbitrator designated arbitrator designated by the Society of Maritime Arbitrators 410 Inc.
 411 In disputes where the total amount claimed by either party does not exceed 412 the amount stated in the Charter Party the arbitrator shall be appointed by the 413 arbitrator designated arbitrator designated by the Society of Maritime Arbitrators 414 Inc.
 415 In disputes where the total amount claimed by either party does not exceed 416 the amount stated in the Charter Party the arbitrator shall be appointed by the 417 arbitrator designated arbitrator designated by the Society of Maritime Arbitrators 418 Inc.
 419 In disputes where the total amount claimed by either party does not exceed 420 the amount stated in the Charter Party the arbitrator shall be appointed by the 421 arbitrator designated arbitrator designated by the Society of Maritime Arbitrators 422 Inc.
 423 In disputes where the total amount claimed by either party does not exceed 424 the amount stated in the Charter Party the arbitrator shall be appointed by the 425 arbitrator designated arbitrator designated by the Society of Maritime Arbitrators 426 Inc.
 427 In disputes where the total amount claimed by either party does not exceed 428 the amount stated in the Charter Party the arbitrator shall be appointed by the 429 arbitrator designated arbitrator designated by the Society of Maritime Arbitrators 430 Inc.

**RIDER CLAUSES
MV ALINDA
CHARTER PARTY DATED LONDON, 1ST AUGUST 2006**

Clause 18. Vessel's description

MV ALINDA
1977
MALTA FLAG
28,306 MT DWAT ON 9.767M SSW
LOA/BEAM 179.7M / 25M
6HO/HA : 1/ 10.5MX 11.2M 2/8 EACH 12.25M X 11.2M
GRAIN MAIN HO 1,208,386 CFT
5 X 15T CRANES SERVICING ALL HOLDS
NO CRANEDRIVERS FROM SHIPS CREW
NO TWO CRANES TO BE WORKED SIMULTANEOUSLY AT THE SAME HATCH
GRAIN BDOWN:
165023/206985/209294/209294/208496 CFT
VESSEL IS NOT GRAB FITTED
ALL DETAILS ABT.

Owners have faxed the following documents to Charterers:
(a) Ship's Registry, (b), Owners P & I entry certificate.

Clause 19. Vessel's readiness for loading

At loading port, Owners are to tender vessel with holds properly swept, cleaned, dried, free of previous cargo and in all respect ready to receive the cargo. Owners confirm that vessel's holds are clean and suitable for the carriage of intended cargo.

Clause 20. Notice of Readiness and Laytime at Loading Port

Notification of the vessel's readiness at loading port to be given by Master/Owners in writing or by cable or by telex or by fax or by VHF to Charterers and/or their Agents at any time SHINC whether in port or not, whether in berth or not, whether in free pratique or not, and whether in customs clearance or not.

Clause 21. Demurrage / Despatch

Demurrage/despatch: Demurrage USD 8,000/half despatch to be settled after completion of discharge of cargo within 15 days upon receiving Owners/Charterers claim along with supporting documents like SQF, NOR, TS copies, please also see Clause 44.

Clause 22. Stevedores

Stevedores to be appointed and paid for by the Charterers or Shippers/Receivers.
Notwithstanding anything contained herein to the contrary, the Charterers shall pay for any and all damage to the Vessel caused by stevedores provided the Master has notified the Charterers and/or their agents in writing as soon as practical but not later than 48 hours after any damage is discovered. Such notice to specify the damage in detail and to invite Charterers to appoint a surveyor to assess the extent of such damage.

In case of any and all damage(s) affecting the Vessel's seaworthiness and/or the safety of the crew and/or affecting the trading capabilities of the Vessel, the Charterers shall immediately arrange for repairs of such damage(s) at their expense and the Vessel is to remain on hire until such repairs are completed and if required passed by the Vessel's classification society. Any time lost to be paid by Charterers at rate of demurrage for detention.

RIDER CLAUSES

MV ALINDA

CHARTER PARTY DATED LONDON, 1ST AUGUST 2006

Clause 23. Overtime

At loading and discharging ports, overtime to be for account of party ordering same but if ordered by port authority then same to be for Charterers account. Overtime for Officers and crews to be for Owner's account

Clause 24. Freight Payment

Full freight less 3.75% per cent commission to be deducted and to be paid to Owner's nominated account free of bank charges to Owners' account within five (5) banking days after completion of loading, signing and releasing Bills of lading to be marked "Freight payable as per charter party" and to show date of this C/P.

Clause 25. Agents

Charterers agents to be used at ports of loading and discharging.

Loadport Agent:

BALAJILAL MOOKERJEE & CO. (P) LTD.
CHARTER BROKERS + STEAMER AGENTS
25 SWALLOW LANE, KOLKATA-700001, INDIA
TEL : +91-33-22309181/2
FAX : +91-33-22309639
Contact Person: Mr. ARUP MOOKERJEE

Charterers' Agent, subject reasonable port D/A's after Owners' approval.

Discharge port agent:

Charterers' agent nominated agent.

Charterers agents both ends are acceptable subject to customary competitive PDA plus customary agency fee and also subject to charterers agents will have complete co-ordination/co-operation with Owner's protective agents for any paper work/formalities which needed by owners at loadport for tax purposes.

Clause 25(a). Lighterage/lightening

Lighterage/lightening at loading and discharging ports, if any, to be for Charterers arrangements / account / time / risk.

Clause 26. Taxes/Dues

Any taxes/dues/wharfages at loadprt/discharge port if any on cargo to be for Charterers' account and same on vessel A/O freight to be for Owners' account both ends.

Clause 27. Inaccessible Space

No cargo to be loaded in bunker spaces, deep tank, far ends, alleyways or any other places not easily accessible.

Clause 28. Standard Clauses

Chamber of Shipping War Risk Clauses 1 & 2 the amended or New Both-to-Blame Collision Clauses. The New Jason Clauses and P & I Bunker Deviation, BIMCO Double Banking Clauses, The General Paramount Clause and The BIMCO ISPS Clause for voyage Charterers are deemed to be fully incorporated in this Charter Party.

Clause 29. Arbitration

Arbitration in London, English Law to apply - BIMCO's standard law and arbitration clause to be incorporated in the Charter Party.

RIDER CLAUSES
MV ALINDA
CHARTER PARTY DATED LONDON, 1st AUGUST 2006

Clause 30. Extra insurance of cargo

Vessel more than 20 years Owners to contribute USD 3,000 lumpsum to Charterers.

Clause 31. Owners Bankers

Freight to be remitted to :-

OWNERS BANKERS	: ABN AMRO BANK 348 SYNGROU AVENUE 176 74 ATHENS GREECE
: SWIFT	: ABNAGRAB : IBAN NO.: GR52 0601 0950 0000 0000 0623 296
BENEFICIARY	: TITAN MARITIME COMPANY LIMITED
BENEFICIARY'S A/C	: 095/00.06 23.296 USD
NY COVER	: ABN AMRO BANK : SWIFT: ABNAUS33 : ABA : 026009580

Clause 32. Notices and information during sea passage

At loadport, the Owners/Master to tender notice on fixing to Agents and Charterers. On sailing loading port, Master/Owners to advise Charterers, loaded quantity and ETA port of discharging. During passage, Owners/Master to update position/approximate ETA basis 1 SB SP China (Lienyungang or Rizhao). Master/Owners to give 3/2/1 days and 12 hours both ends approximate arrival notice to Agents discharge port and Charterers followed definite notice.

Clause 33. Incorporation of Charter party terms

All terms and conditions, clauses and exceptions contained in this Charter Party to apply and all Bills of Lading issued under this Charter Party and are deemed to be incorporated therein.

Clause 34. Bills of Lading

Bills of lading to be issued on "Congen Bill" edition 1994 proforma.

Bills of Lading to be marked "FIOSY" and "All terms and conditions, clauses and exceptions contained in Charter Party dated 1st August, 2006 are herewith incorporated".

All Bills of Lading issued under this Charter Party to incorporate the Clause Paramount Vessel to be left in seaworthy trim between load/discharge ports/berths always to the Master's satisfaction.

No original Bills of Lading to be carried on board vessel during seapassage.

No through or liner Bills of Lading to be issued.

In case multiple Bills of Lading will be issued, vessel/Master not to be responsible for the distribution of the cargo to various receivers.

**RIDER CLAUSES
MV ALINDA
CHARTER PARTY DATED LONDON, 1ST AUGUST 2006**

Clause 35. Determination of cargo quantity

The quantity of cargo on board to be ascertained as per joint survey. Time for joint survey to be for owner's account and cost of such joint survey operation to be shared equally between Owners and charterers at both ends.

Clause 36. Cargo Claims

Damage to and claims on cargo shall be for Owners' account if caused by unseaworthiness of the vessel and/or failure on their part to properly carry, keep and care for the goods while on board unless the Owners proves that unseaworthiness was caused by the loading, stowage, lashing, discharge or other handling of the cargo, in which case such claim shall be for Charterers' account.

Clause 37. Time counting

Time to count after tendering of NOR ATDNŠHINC and 12 hours turning time both ends unless sooner commenced.

Clause 38. Ventilation Clause

Ventilation, if required, to be done as per Charterers' written instruction. In case having questions about ventilation of the cargo, Master has the right to ask Charterers for relevant recommendation and Charterers should reply on Master's enquiry.

Clause 39. Shifting

First shifting from anchorage to the berth at both ends to be for Owner's account. It is expressly agreed that shifting from the loading / discharging berth to road and back due to arrival of liner and / or other preferential vessel and / or port orders always to be for Charterers' time and expenses.

Time and expenses for first opening and last closing of hatch covers to be for Owner's account.

Clause 40. Cancelling Clause

In case delay due to objective reason vessel can loose cancelling date, Owners may ask Charterers about extension of cancelling date. Charterers should to advise their decision to cancel or extend laycan within 24 running hours after receipt of such written notification from the Owners, otherwise cancelling date to be considered as extended in accordance with the Owners' request.

Clause 41. Waiting of suitable tide

Any time lost for waiting suitable tide allowing vessel to sail from loading and / or discharging port after completion of cargo operations to count as laytime.

Clause 42. Loading of metal concentrates

Deleted.

**RIDER CLAUSES
MV ALINDA
CHARTER PARTY DATED LONDON, 1st AUGUST 2006**

Clause 43. Grab arrangements

Supply of grabs should be arranged by Charterers for their account. Owners will accept use of 6-8 CBM grabs and supply power from ship free of charge to Charterers.

Maximum weight of cargo and grab to be max 14 MTS.

Clause 44. Non-reversible laytime

Laytime non-reversible between any ports and separate timesheets to be issued for each port

Clause 45. LOI in lieu of Original B/L

In case original Bills of Lading would not be ready upon vessel's arrival at discharge port, Owners allow to discharge cargo upon arrival against Charterers' single LOI and signed by Charterers and receivers. Such LOI in Owner's P&I Club wordings.

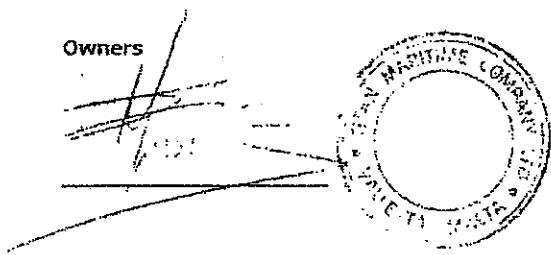
Clause 46. Total Commission

6.25 per cent total commission (including 3.75 per cent for division which includes additional commission + 1.25 per cent for Greystone Shipping Ltd + 1.25% for Lightship Singapore.

Clause 47

Owners to allow free use of vessel's cranes and no cranedrivers to be supplied from ship's crew, i.e. ship crew not to operate ship's gear.

Owners

A handwritten signature in black ink is written over a horizontal line. To the right of the signature is a circular stamp. The text around the perimeter of the stamp reads "NEW MARITIME COMPANY LTD" at the top and "SINGAPORE" at the bottom. In the center of the stamp, the words "NEW MARITIME COMPANY LTD" are repeated.

Charterers

EXHIBIT 2

IN THE MATTER OF THE ARBITRATION ACT 1996**AND****IN THE MATTER OF AN ARBITRATION****BETWEEN:-****TITAN MARITIME COMPANY LIMITED**

of Valletta, Malta

Claimants

(Owners)

- and -

M/S ROTOMAC EXPORT PVT LTD.

of Kanpur, India

Respondents

(Charterers)

"ALINDA"Charterparty dated 1st August 2006

FINAL ARBITRATION AWARD

WHEREAS:

1. By a charterparty on a GENCON 1994 form with amendments and additional typed clauses dated London, 1st August 2006, the Claimants (hereinafter referred to as "the Owners") chartered their motor vessel

- 2 -

"ALINDA" to the Respondents (hereinafter referred to as "the Charterers") for the carriage of "*MINIMUM 27,200MT 5PC MORE IN OWNERS' OPTION BULK IRON ORE*" from "*1SB 1SP HALDIA ... +1SB SP PARADIP*" to "*1SB 1SP CHINA (LIENYUNGANG OR RIZHAO)*" on terms and conditions more particularly set out in the said charterparty. In the event, the vessel discharged at Xingang in circumstances described more fully below.

2. Box 25 and clauses 19 and 29 provided for arbitration in London and for English law to apply. Clause 29 incorporated the BIMCO standard law and arbitration clause. Clause 25 provided that any disputes not exceeding US\$100,000 were to be dealt with in accordance with the LMAA Small Claims Procedure.
3. Disputes, hereinafter more particularly defined, arose between the parties. Following discussions between the parties, the Charterers put forward three names who would be acceptable to them to act as sole arbitrator including me, Patrick O'Donovan of Churcham House, 1 Bridgeman Road, Teddington, Middlesex, TW11 9AJ. The Owners responded by agreeing to my appointment and accordingly I accepted the appointment as sole arbitrator under the LMAA Small Claims Procedure 2006. I am a Member of the Baltic Exchange in the City of London and a Full Member of the London Maritime Arbitrators Association ("the LMAA").
4. Pursuant to the provisions of the charterparty referred to in Recital 2 above, the seat of the arbitration is in England.
5. The disputed referred to me concerned the Owners' claim for their final freight invoice in the sum of US\$99,853.30 representing predominantly net demurrage and damages for what was said to be a breach by the Charterers in ordering the vessel to discharge at Xingang notwithstanding (the Owners said) that this was an uncontractual discharge port, Lienyungang or Rizhao

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being the only discharge ports at which the Owners were contractually obliged to discharge the cargo. The Owners also claimed interest thereon and their costs. The Charterers denied liability for the sum claimed, although they appeared to concede that there was some balance due to the Owners.

6. The Owners were represented by their Defence Club, North Insurance Management Ltd/North of England P&I Association Ltd. ("NOE"). The Charterers were not represented and (save for the steps taken by them in agreeing me as sole arbitrator) as appears below they played no active part in the reference, although they were throughout aware of the proceedings, of the sums claimed against them and the orders made by me in the reference.
7. Claim submissions were served via the brokers, Greystone Shipping Ltd ("Greystone"), by way of a letter from NOE dated 22nd January 2007. Those claim submissions together with supporting documentation were served on the Charterers by hand on 7th March 2007, as evidenced by an Affidavit of Service from the Owners' Indian Lawyers, Prashant S. Pratap Law Office. The Charterers acknowledged service by stamping the claim submissions and the first and last page of the Appendix comprising the supporting documents.
8. By fax on 5th April 2007, the Owners requested an order that the Charterers serve their defence submissions within 14 days, failing which I would proceed to my Award on the basis of the claim submissions and the documents annexed thereto.
9. By e-mail on 18th April 2007, sent via Greystone, I gave the following directions:

"You will recall that I have been appointed as sole arbitrator in this matter which is being handled under the LMAA Small Claims Procedure (2006)."

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Claim submissions were served by the North of England P&I Association (the Defence Class Insurers of Titan Maritime Company Ltd, the Owners of the vessel) and I understand that these together with the Appendix were served on you by hand on 7th March 2007.

The Small Claims Procedure requires the letter of defence and details of counterclaim (if any), accompanied in each case by copies of all relevant documents including any experts' reports, to be delivered to the claimant within 28 days from receipt of the letter of claim or from the date of the appointment of the arbitrator, whichever is the later. Accordingly, your letter of defence and any counterclaim was due on 4th April.

The North of England have now applied for an order that your letter of defence (and any counterclaim) be served within 14 days. I should say that the Small Claims Procedure contains a fixed procedure with fixed time limits and any extension to the time limits laid down must be applied for before expiry of the existing time limit. That has not happened in this case.

Accordingly, I now give you notice pursuant to paragraph 5(d) of the Small Claims Procedure that unless the outstanding letter of defence (and counterclaim) is received by me and by the Respondents within 14 days of service of this notice upon you, I will proceed to my award on the basis of the submissions and documents before me to the exclusion of all others. You should be aware that any pleadings submitted by you subsequent to the expiry of this time limit will not be admissible (again as provided for in paragraph 5(d) of the Small Claims Procedure)."

A copy of that message was served by hand on the Charterers on 4th May 2007, as evidenced by an e-mail from the Owners' Indian lawyers dated 2nd June 2007. The Charterers acknowledged receipt of the order and the associated documentation by signing and stamping the covering letter from the Owners' Indian lawyer.

10. In the light of my earlier order, the last date for service of the outstanding letter of defence was 14 days after 4th May 2007, namely 18th May 2007. No such submissions were served within the deadline.

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11. Nevertheless, by fax on 12th June 2007, the Charterers purported to serve defence submissions, together with some supporting documents. By fax on 19th June 2007, the Charterers purported to serve their laytime calculations. However, the terms of the Small Claims Procedure and of my order of 18th April 2007 are quite clear, namely that because of the paragraph 5(d) notice given by me on 18th April 2007, any pleadings submitted by the Charterers subsequent to the expiry of the time limit are not admissible.
12. By fax and e-mail on 29th June 2007, I sent the following message to the parties by e-mail and via Greystone.

"I refer to the recent exchanges. In my fax of 18th April 2007 I gave notice pursuant to paragraph 5(d) of the Small Claims Procedure that unless the outstanding letter of defence (and any counterclaim) was received by me and by the Claimants (although I mistakenly said Respondents) within 14 days of service of that notice on Rotomac Export Pvt. Ltd., I would proceed to my Award on the basis of the submissions and documents before me, to the exclusion of all others. I pointed out that paragraph 5(d) of the Small Claims Procedure provides:

"Any pleading submitted by the defaulting party subsequent to expiry of the time limit set by the arbitrators' notice shall not be admissible".

That notice was sent c/o Greystone Shipping and also served on the Respondents on 4th May 2007 as attested to in an Affidavit sworn by an Advocate in Kanpur. Accordingly, the latest date for service of defence submissions was 18th May 2007. No letter of defence was served within that deadline. The Respondents purported to serve a letter of defence on 12th June 2007 but pursuant to paragraph 5(d) of the Small Claims Procedure, that letter is not admissible in these arbitration proceedings (as was made clear in my notice of 18th April 2007).

Accordingly, I am now proceeding to my Award on the basis of the letter of claim alone."

13. I am satisfied that the Charterers have been given every opportunity to participate and to serve submissions in the arbitration but they have deliberately declined to do so. They were plainly aware of the proceedings, of the sums claimed against them and of the orders made by me in the reference. Accordingly, I thereafter proceeded to consider the matter on the

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basis stated, pursuant to paragraph 5(d) of the Small Claims Procedure. I should stress that, although no admissible defence submissions were served by the Charterers, I considered it my duty carefully to consider the merits of the claim before me and to scrutinise the documentation submitted by the Owners in order to determine whether or not the claim had been proved on the balance of probabilities and whether or not it was properly evidenced and correctly calculated.

Discussion and my findings

• **The relevant contractual provisions**

14. The charterparty provided, where relevant, as follows

"Box 11 Discharging port or place ...

ISB 1 SP CHINA (LIENYUNGANG OR RIZHAO)

Box 12 Cargo ...

MINIMUM 27,200MT 5PC MORE IN OWNERS' OPTION BULK IRON ORE.

Box 13 Freight rate...

US\$18.50 PMT BASIS 2/1

Box 16 Laytime ...

A) LAYTIME FOR LOADING

LOADING RATE 6,000 MTS PWWD SHINC AT BOTH LOADPORTS BASIS WORKABLE 5 HOOKS. IF SHORE CRANE LOADING AT PARADIP THEN 8,000 MTS PWWD SHINC.

B) LAYTIME FOR DISCHARGING

DISCHARGING RATE CQD DISCHARGE (CHARTERERS GUARANTEE MIN 8,000MTS PWWD SHINC - IT IS HEREBY UNDERSTOOD THAT OWNERS ARE ENTITLED TO GIVE A NOTICE ON ARRIVAL AND LAYTIME TO START COUNTING 12 HOURS LATER AS PER CLAUSE 37.

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Box 20 Demurrage rate ...

DEM. USD8,000/HALF DESPATCH TO BE SETTLED AFTER COMPLETION OF DISCHARGE OF CARGO WITHIN 15 DAYS UPON ...

Box 24 Brokerage commission ...

6.25% TOTAL PAYABLE OUT OF 100% FREIGHT

...

Clause 37. Time Counting

Time to count after tendering NOR ATDNHINC and 12 hours turning time both ends unless sooner commenced.

Clause 44. Non-reversible laytime

Laytime non-reversible between any ports and separate time sheets to be issued for each port."

• **Laytime/demurrage at Haldia**

15. The vessel arrived at Haldia and tendered NOR at 1430 on 7th August 2006 with laytime commencing at 0230 the following day. The vessel berthed at 1635 on 14th August 2006. The Vessel completed loading at 0215 on 19th August 2006. A total of 20,266mt of cargo was loaded and therefore the total laytime allowed for the operation was 3 days 9 hours and 4 minutes. The vessel was therefore on demurrage for 6 days 2 hours and 20 minutes amounting to gross demurrage in the sum of US\$48,777.78 (US\$46,948.61 net of commission).

• **Laytime/demurrage at Paradip**

16. The Vessel thereafter proceeded to Paradip and tendered NOR at 2010 on 19th August 2006. Laytime commenced 12 hours later at 0810 the following day. The vessel berthed at 0900 on 23rd August 2006 with loading commencing at 1045 on that day. Loading was completed at 0500 on 24th August 2006. A total of 6,000mt of cargo was loaded with the effect that laytime expired at 0810 on 21st August 2006. Accordingly, the Vessel was on

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demurrage for a further 2 days 19 hours and 2 minutes amounting to total gross demurrage in the sum of US\$22,844.44 (US\$21,506.52 net of commission).

• The order to discharge at Xingang

17. The Owners very fairly made me aware of the dispute between the parties (as reflected in correspondence before I was appointed) relating to the question of whether an order to discharge at Xingang was uncontractual or not. It was the Owners' case that the express reference to Lienyungang or Rizhao in the charterparty constituted a discharge port range, with the Charterers being contractually bound to discharge at one or other port. Again, very fairly, the Owners told me that it was the Charterers' case that the reference to "*one safe port China*" entitled them to order the vessel to discharge at any port in China and that the ports specified in brackets merely represented an intention on their part but did not amount to a binding commitment or otherwise limit or restrict their right to select any port in China for discharge.
18. I have no hesitation in agreeing with the Owners' construction, which is undoubtedly correct. If the Charterers' interpretation of the clause were correct, then there would have been no need for them to identify any particular port in China, because to do so would have added nothing to the charterparty. It was clear that the reason why Lienyungang or Rizhao was specified was not because it expressed an intention on the Charterers' part but rather that it gave the Charterers the right of selection between those two ports and operated as a qualification to discharge in China. In short, the words "*Lienyungang or Rizhao*", limited the Charterers' right to discharge at either one safe berth one safe port Lienyungang or one safe berth one safe port Rizhao.

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19. Such a construction makes perfect commercial sense. The Owners had agreed a freight rate of US\$18.50 pmt based on discharge at either of those two ports. Additional time and fuel costs would have been involved in discharge at a more Northerly Chinese port (as, indeed, was the case in relation to the actual discharge at Xingang – a topic to which I return below).
20. In agreeing to discharge at Xingang, the Owners did not waive any rights that they might otherwise have had under the charterparty (in particular, their right to claim damages for the consequences of compliance with an invalid order), nor were they estopped from asserting their existing rights under the charterparty or from claiming damages. It was quite clear from the correspondence that the Owners consistently maintained that the charterparty provided that the only discharge ports capable of a valid nomination were Lienyungang and Rizhao. As the Owners said in their e-mail of 1st September 2006:

"If Charterers require an alternative discharge port then Owners can consider same against their extra expenses being covered."

• Laytime/despatch at Xingang

21. Accordingly, the Vessel arrived at Xingang and tendered NOR at 0025 on 8th September 2006 with laytime commencing at 1225 on that day. Owners calculated a minimum discharge period of 3 days 6 hours and 49 minutes on the basis of 26,266mt of cargo with a guaranteed minimum discharge rate of 8,000mt per weather working day. In the event, the Vessel berthed at 1615 on 8th September, commencing discharge at 1840 on that day. Discharge completed at 1220 on 9th September 2006. There was therefore a time saving of 2 days 6 hours and 54 minutes amounting to total despatch in the sum of US\$9,150. However, the Owners allowed despatch of US\$9,561 in their Final Freight Statement and, in the circumstances, that is the figure that I have found it appropriate to take in calculating the final balance of account.

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- **Damages for discharge at Xingang**

22. The Owners claimed damages of US\$41,153 in respect of losses that they said they had sustained by reason of the Charterers' breach of charterparty in discharging at Xingang. I have already found above that a breach was established because of the proper construction of the charterparty. I am satisfied that the Owners have correctly calculated their damage at US\$43,508.50 in respect of hire, fuel oil and MDO based on the total additional steaming time of 2 days 8 hours 13 minutes.

- **The final accounting position**

23. Accordingly, the final accounting position between the parties is as set out in the Owners' final freight statement dated 27th October 2006 (a copy of which is annexed hereto), namely a credit in the Owners' favour of US\$99,353.30. The Owners are entitled to an award in that amount, together with interest thereon at a commercial rate from 3rd November 2006 which allows a reasonable period after the submission of the final freight statement for the checking of accounts. In line with the usual rule that costs follow the event the Charterers must pay their own and the Owners' costs (which I have assessed at the applicable maximum figure allowed under the Small Claims Procedure of £2,000) as well as the costs of this Award (being the fixed fee then payable of £1,500).

NOW I the said Arbitrator, Patrick O'Donovan, having accepted the burden of this reference and having carefully and conscientiously considered the submissions and evidence (all documentary) placed before me and having given due weight thereto, **DO HEREBY MAKE, ISSUE AND PUBLISH** this my **FINAL ARBITRATION AWARD** as follows:

- (A) **I FIND AND HOLD** that the Owners' claim succeeds in full in the sum of US\$99,353.30.

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(B) I THEREFORE AWARD AND ADJUDGE that the Charterers shall forthwith pay to the Owners the said sum of US\$99,353.30 (Ninety-Nine Thousand Three Hundred and Fifty-Three United States Dollars and thirty cents) PLUS interest on the said sum at the rate of 7.75% (seven and three-quarters per cent) per annum or pro rata compounded at three monthly rests from 3rd November 2006 until the date of payment.

(C) I FURTHER AWARD AND ADJUDGE:

- (i) that the Charterers shall bear their own costs and pay the Owners' costs of the reference which I ASSESS AND DETERMINE in the sum of £2,000 (Two Thousand Pounds Sterling); together with interest thereon at the rate of 7.75% (seven and three-quarters per cent) per annum or pro rata compounded at three-monthly rests from the date of this my Final Arbitration Award until the date of payment.
- (ii) that the Charterers shall further bear and reimburse forthwith to the Owners the costs of this my Final Arbitration Award in the sum of £1,500 together with interest thereon at the rate of 7.75 (seven and three-quarters per cent) per annum or pro rata from 27th December 2006 until the date of reimbursement.

GIVEN under my hand at the seat of the arbitration in London, England this 17th day of July 2007.



Patrick O'Donovan

Sole Arbitrator



Witness

IN THE MATTER OF THE ARBITRATION ACT 1996

AND

IN THE MATTER OF AN ARBITRATION

BETWEEN:-

TITAN MARITIME COMPANY LIMITED

of Valletta, Malta

Claimants

(Owners)

- and -

M/S ROTOMAC EXPORT PVT LTD.

of Kanpur, India

Respondents

(Charterers)

"ALINDA"

Charterparty dated 1st August 2006

FINAL ARBITRATION AWARD
